

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF OHIO**

KAYLA JANE,)	CASE NO.: 1:16CV2195
)	
Plaintiff)	JUDGE: PATRICIA GAUGHAN
)	
)	
JEFFERY K. PATTERSON, et al.,)	PLAINTIFF'S MOTION TO
)	VOLUNTARILY DISMISS
Defendants)	WITHOUT PREJUDICE
)	
)	

Now comes the Plaintiff, KAYLA JANE, by and through counsel, and moves this Court for voluntary dismissal of her complaint without prejudice for the reasons contained in the attached memorandum.

Respectfully submitted,
/s/ Gregory C. Sasse

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Attorney for Plaintiff

Memorandum

Pursuant to Federal Rule of Civil Procedure Rule 41(a)(2) Plaintiff, through counsel, moves this Honorable Court to permit Plaintiff to voluntarily dismiss the instant action without prejudice.

Voluntary dismissal of a complaint without prejudice under this rule is within the sound discretion of the district court. In determining whether a defendant would be prejudiced by granting plaintiff's motion to voluntarily dismiss action, courts consider: (1) plaintiff's diligence in bringing the motion; (2) any undue vexatiousness on plaintiff's part; (3) the extent to which the suit has progressed; (4) the duplicative expense of relitigation; and (5) the adequacy of plaintiff's explanation for the need to dismiss. In support of this motion Plaintiff, by and through counsel, states as follows: a) Expected funding to prosecute the action has not materialized and, as a result, only minimal discovery has been possible by plaintiff; b) Plaintiff's financial situation is dire, her cell phone has been turned off for lack of payment, and, therefore, Counsel has no effective means of communicating with Plaintiff concerning her scheduled deposition. Counsel has discussed this matter with opposing counsel; c) Co-counsel for Plaintiff has suffered a stroke and it is unclear when he will be able to participate in this matter; d) Prejudice to defendants is minimal as defendants have not deposed witnesses nor filed a motion for summary judgment at this time; e) and, finally, Plaintiff is bringing this Motion to Dismiss promptly following the development of the above circumstances.

For all of the above reasons, Plaintiff, through counsel, moves this Honorable Court to permit Plaintiff to voluntarily dismiss the instant action without prejudice.

Respectfully submitted,
/s/ Gregory C. Sasse

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Certificate of Service

Parties will be served with this motion through the Court's electronic notification system.
All other parties will be served by regular U.S. mail.

Respectfully submitted,
/s/ Gregory C. Sasse

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KAYLA JANE,)	CASE NO.: 1:16CV2195
)	
Plaintiff)	JUDGE: PATRICIA GAUGHAN
)	
)	
JEFFERY K. PATTERSON, et al.,)	DISMISSAL
)	
Defendants)	
)	
)	

With leave of Court the instant action is dismissed without prejudice.

IT IS SO ORDERED.

JUDGE PATRICIA GAUGHAN